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HOUSE BILL 1064

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO ELECTIONS; UPDATING LANGUAGE IN ARTICLES 4, 5 AND  
12 OF THE ELECTION CODE; MAKING LANGUAGE IN THE ELECTION CODE  
CONSISTENT WITH FEDERAL LAW; DEFINING TERMS; CHANGING  
SUPERVISORY DUTIES OF THE SECRETARY OF STATE; SPECIFYING HOW  
PRECINCTS MAY BE FORMED AND DESIGNATED; ALLOWING VOTER  
ASSISTANCE WITH VOTING SYSTEMS; CHANGING REGISTRATION  
PROCEDURES; PROVIDING FOR EARLY PROCESSING OF ABSENTEE BALLOTS;  
MAKING CHANGES IN THE CONDUCT OF ELECTIONS; AMENDING,  
RECOMPILING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 1, Article 1 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] REGISTRATION AGENT.--As used in the  
Election Code, "registration agent" means a state or federal

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1 employee who provides voter registration at a state agency or  
2 any other individual who assists another person in completion  
3 of a voter registration application."

4 Section 2. Section 1-1-16 NMSA 1978 (being Laws 1969,  
5 Chapter 240, Section 16, as amended) is amended to read:

6 "1-1-16. REGISTRATION OFFICER.--As used in the Election  
7 Code, "registration officer" means a county clerk or [~~his~~] a  
8 clerk's authorized deputy [~~or~~], a member of the board of  
9 registration or a state employee performing registration duties  
10 in accordance with the federal National Voter Registration Act  
11 of 1993 or Section 1-4-5.2 NMSA 1978."

12 Section 3. Section 1-2-17 NMSA 1978 (being Laws 1969,  
13 Chapter 240, Section 37, as amended) is amended to read:

14 "1-2-17. PRECINCT BOARD--SCHOOLS OF INSTRUCTION.--

15 A. The secretary of state [~~shall~~] may supervise and  
16 the county clerk shall cause to be held a public school of  
17 instruction for all presiding judges, precinct boards and  
18 others who will be officially concerned with the conduct of  
19 elections in any county with a population of one hundred  
20 thousand or more according to the most recent federal decennial  
21 census.

22 B. The county clerk shall cause to be held a public  
23 school of instruction for all presiding judges, precinct boards  
24 and others who will be officially concerned with the conduct of  
25 the elections in any county having a population of less than

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1 one hundred thousand according to the most recent federal  
2 decennial census.

3 C. The schools for instruction provided for in this  
4 section shall be as follows:

5 (1) one school not less than three days before  
6 the primary election;

7 (2) one school not less than three days before  
8 the general election; and

9 (3) one school not less than three days before  
10 any other statewide election.

11 D. All major details of the conduct of elections  
12 shall be covered by the county clerk or [~~his~~] the clerk's  
13 authorized representative at such school, with special emphasis  
14 being given to recent changes in the Election Code.

15 E. The school of instruction shall be open to any  
16 interested person, and notice of the school shall be given to  
17 the public press at least four days before the school is to be  
18 held. Each member of the precinct board shall be notified by  
19 mail at least seven days prior to commencement of the school.

20 F. [~~No~~] A person shall not serve as a judge or  
21 member of a precinct board in any election [~~who has not~~] unless  
22 that person has attended at least one such school of  
23 instruction in the calendar year of the election at which [~~he~~]  
24 the person is appointed to serve or has been certified by the  
25 county clerk with respect to the person's completion of the

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1 school of instruction. This subsection shall not apply to  
2 filling of vacancies on election day as provided in Subsection  
3 B of Section 1-2-15 NMSA 1978."

4 Section 4. Section 1-3-12 NMSA 1978 (being Laws 1984 (1st  
5 S.S.), Chapter 3, Section 4, as amended) is amended to read:

6 "1-3-12. ADJUSTING PRECINCT BOUNDARIES.--

7 A. Before each federal decennial census, every  
8 precinct boundary shall be adjusted to coincide with a numbered  
9 or named street or road or with a visible terrain feature that  
10 is:

11 (1) shown on the standard base maps developed  
12 pursuant to Subsection B of this section;

13 (2) a designated census block boundary on the  
14 federal PL 94-171 2000 census block maps; or

15 (3) approved by the secretary of state and the  
16 bureau of the census.

17 B. Prior to commencement of the federal decennial  
18 census, the secretary of state shall have prepared and furnish  
19 to each county clerk standard base maps of the county. The  
20 standard base map for nonurban areas of the county shall, as  
21 nearly as practical, show:

22 (1) all state and federal highways;

23 (2) all numbered and named county roads that  
24 have been certified to the [~~state highway and~~] department of  
25 transportation [~~department~~];

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1 (3) all military installation boundaries and  
2 federal and state prison boundaries;

3 (4) all major railroad lines; and

4 (5) other major terrain features such as  
5 flowing rivers and streams, arroyos, powerlines, pipelines and  
6 ridgelines and other acceptable census block boundaries.

7 C. The board of county commissioners and the county  
8 clerks, upon receipt of the standard base maps from the  
9 secretary of state, shall:

10 (1) adjust all urban precinct boundaries to  
11 coincide with numbered or named street boundaries;

12 (2) adjust all nonurban precinct boundaries to  
13 coincide with suitable visible terrain features shown on the  
14 standard base map; provided that in order to make an  
15 adjustment, two or more existing precincts may be consolidated  
16 without consolidating existing polling places; and provided  
17 further that the precincts shall be composed of contiguous and  
18 compact areas, and state, county and municipal boundary lines  
19 may serve as precinct boundaries; and

20 (3) upon the completion of the precinct  
21 boundary adjustments as required in this section, indicate on  
22 the standard base maps the boundaries for both urban and  
23 nonurban precincts and, together with a written description of  
24 the precincts, shall send four copies of the precinct maps to  
25 the secretary of state for approval.

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1           D. The precincts shown upon the standard base maps  
2 submitted pursuant to the provisions of this section and as  
3 revised and approved by the secretary of state pursuant to the  
4 Precinct Boundary Adjustment Act shall become the official  
5 precincts of each county for the 2001 redistricting. For the  
6 2002 and subsequent primary and general elections, changes in  
7 precincts shall be made in accordance with the provisions of  
8 Chapter 1, Article 3 NMSA 1978.

9           E. A county commission shall not split a precinct  
10 into two or more districts for any elected office.

11           F. Precincts shall be designated solely by whole  
12 numbers."

13           Section 5. A new section of Chapter 1, Article 4 NMSA  
14 1978 is enacted to read:

15           "[NEW MATERIAL] THIRD-PARTY REGISTRATION AGENTS--  
16 REGISTRATION REQUIRED--PROCEDURES--REPORTS--PENALTY.--

17           A. Registration agents who either register or  
18 assist persons to register to vote on behalf of an organization  
19 that is not a state or federal agency shall register with the  
20 secretary of state and the organization shall provide the  
21 secretary of state with:

22                   (1) the name and permanent address of the  
23 organization;

24                   (2) the names, permanent addresses, temporary  
25 addresses, if any, dates of birth and social security numbers

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1 of each person registering persons to vote in the state on  
2 behalf of the organization; and

3 (3) a sworn statement from each registration  
4 agent employed by or volunteering for the organization stating  
5 that the agent will obey all state laws and rules regarding the  
6 registration of voters on a form that gives notice of the  
7 criminal penalties for false registration.

8 B. Organizations employing registration agents or  
9 using volunteer registration agents shall deliver a certificate  
10 of registration to the secretary of state or county clerk  
11 within twenty-four hours of its completion by the person  
12 registering to vote or the next business day if the appropriate  
13 office is closed for that twenty-four-hour period.

14 C. The secretary of state may issue rules to ensure  
15 the integrity of the registration process, including rules  
16 requiring that organizations account for all registration forms  
17 used by their registration agents.

18 D. A person who violates the provisions of this  
19 section is guilty of a fourth degree felony."

20 Section 6. Section 1-4-5 NMSA 1978 (being Laws 1969,  
21 Chapter 240, Section 63, as amended) is amended to read:

22 "1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF  
23 INFORMATION--PENALTY.--

24 A. A qualified elector may apply to a registration  
25 officer for registration.

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1           B. The registration officer or qualified elector  
2 shall fill out each of the blanks on the [~~original and the~~  
3 ~~voter's copy of the~~] certificate of registration by typing or  
4 printing in ink. [~~Carbon paper may be used between the~~  
5 ~~original and the voter's copy.~~]

6           C. The qualified elector shall subscribe a  
7 certificate of registration as follows:

8                   (1) [~~a person shall sign his original~~] by  
9 signing the certificate of registration using [~~his~~] the  
10 qualified elector's given name, middle name or initial and last  
11 name; or

12                   (2) if any qualified elector seeking to  
13 register is unable to read and write either the English or  
14 Spanish language or is unable to read or write because of some  
15 physical disability, the certificate of such person shall be  
16 filled out by a registration officer and the name of the  
17 qualified elector so registering shall be subscribed by the  
18 making of [~~his~~] the qualified elector's mark.

19           D. When properly executed by the registration  
20 officer, [~~the original and the voter's copy of~~] the certificate  
21 of registration shall be presented, either in person or by mail  
22 by the qualified elector or by the registration officer, to the  
23 county clerk of the county in which the qualified elector  
24 resides.

25           E. Only when the certificate of registration is

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1 properly filled out, subscribed by the qualified elector and  
2 accepted for filing by the county clerk as evidenced by [~~his~~  
3 the clerk's signature or stamp and the date of acceptance  
4 thereon shall it constitute an official public record of the  
5 registration of the qualified elector. It is unlawful for any  
6 information required on the certificate of registration to be  
7 copied, conveyed or used by anyone other than the person  
8 registering to vote, either before or after it is filed with  
9 the county clerk, except by elections administrators for  
10 purposes of the registration process.

11 F. A person who unlawfully copies, conveys or uses  
12 information from a certificate of registration is guilty of a  
13 fourth degree felony."

14 Section 7. Section 1-4-8 NMSA 1978 (being Laws 1969,  
15 Chapter 240, Section 66, as amended) is amended to read:

16 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF  
17 REGISTRATION--CLOSE OF REGISTRATION--FEDERAL QUALIFIED ELECTORS  
18 AND OVERSEAS VOTERS--LATE REGISTRATION.--

19 A. For qualified electors other than federal  
20 qualified electors or overseas voters, the following provisions  
21 shall apply:

22 (1) the county clerk shall receive  
23 certificates of registration at all times during normal working  
24 hours, except that [~~he~~] the clerk shall close registration at  
25 5:00 p.m. on the twenty-eighth day immediately preceding any

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1 election at which the registration books are to be furnished to  
2 the precinct board;

3 (2) registration shall be reopened on the  
4 Monday following the election;

5 (3) for purposes of a municipal or school  
6 election, the registration period for those precincts within  
7 the municipality or school district is closed at 5:00 p.m. on  
8 the twenty-eighth day immediately preceding the municipal or  
9 school election and is opened again on the Monday following the  
10 election;

11 (4) during the period when registration is  
12 closed, the county clerk shall receive certificates of  
13 registration and other documents pertaining thereto but shall  
14 not file the certificate of registration in the registration  
15 book until the Monday following the election, at which time a  
16 voter identification card shall be mailed to the registrant at  
17 the address shown on the certificate of registration;

18 (5) when the twenty-eighth day prior to any  
19 election referred to in this section is a Saturday, Sunday or  
20 legal holiday, registration shall be closed at 5:00 p.m. of the  
21 next succeeding regular business day for the office of the  
22 county clerk; and

23 (6) the county clerk shall accept for filing  
24 any certificate of registration that is [~~hand delivered~~]  
25 subscribed and dated on or before the twenty-eighth day

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1 preceding the election and received by the county clerk before  
2 5:00 p.m. on [~~the Friday immediately following the close of~~  
3 ~~registration~~] that day. The county clerk shall accept for  
4 filing any mailed certificate of registration postmarked and  
5 received not less than twenty-eight days prior to any election  
6 referred to in this section. The county clerk shall accept for  
7 filing any certificate of registration accepted at a state  
8 agency designated pursuant to Section 1-4-5.2 NMSA 1978 not  
9 later than twenty-eight days prior to any election.

10 B. For federal qualified electors and overseas  
11 voters, the county clerk shall accept a certificate of  
12 registration by electronic transmission from a voter qualified  
13 to apply for and vote by absentee ballot in the county if the  
14 transmission is received before 5:00 p.m. on the Friday  
15 immediately preceding the election."

16 Section 8. Section 1-4-23 NMSA 1978 (being Laws 1969,  
17 Chapter 240, Section 79, as amended) is amended to read:

18 "1-4-23. REVIEW OF REGISTRATION--BOARD OF  
19 REGISTRATION--INACTIVE VOTER LIST CREATION.--Beginning on the  
20 third Monday of March of each odd-numbered year, the board of  
21 registration shall review all certificates of registration [~~for~~  
22 ~~failure of the voter to vote~~] and, based on that review, shall  
23 establish a list of inactive voters [~~Voters who fail to vote in~~  
24 ~~at least one statewide or local election in a two-year period~~  
25 ~~shall be placed on an inactive voter list~~] in accordance with

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1 the provisions of the federal National Voter Registration Act  
2 of 1993. The secretary of state shall issue rules on list  
3 maintenance in accordance with the provisions of the federal  
4 National Voter Registration Act of 1993."

5 Section 9. Section 1-5-1 NMSA 1978 (being Laws 1969,  
6 Chapter 240, Section 103, as amended) is amended to read:

7 "1-5-1. SHORT TITLE.--Sections [~~3-5-1 through 3-5-34 NMSA~~  
8 ~~1953]~~ 1-5-1 through 1-5-29 NMSA 1978 may be cited as the  
9 "[Automated] Voter Records System Act"."

10 Section 10. Section 1-5-2 NMSA 1978 (being Laws 1969,  
11 Chapter 240, Section 104, as amended) is amended to read:

12 "1-5-2. DEFINITIONS.--As used in the Election Code:

13 A. "county" means any county in this state;

14 [~~B. "county register" means an official file of~~  
15 ~~original certificates of registration of the county or any~~  
16 ~~precinct thereof;~~

17 C. [~~"voter list" means any prepared list of voters;~~

18 D. [~~"signature roster" means a copy of a voter list~~  
19 ~~with space provided opposite each voter's name for the voter's~~  
20 ~~signature or witnessed mark;~~

21 E. [~~"active data processing media" means magnetic~~  
22 ~~discs, magnetic tape or functionally similar devices containing~~  
23 ~~data capable of being read and processed by computer for the~~  
24 ~~eventual preparation of voter lists;~~

25 F. [~~"intermediate records" means records on active~~

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1 ~~data processing media;~~

2 ~~G. "voter file" means all voter registration~~  
3 ~~information required by law and by the secretary of state that~~  
4 ~~has been extracted from the certificate of registration of each~~  
5 ~~voter in the county, stored on active data processing media and~~  
6 ~~certified by the county clerk as the source of all information~~  
7 ~~required by the Automated Voter Records System Act;~~

8 ~~H. "program records" means the necessary detailed~~  
9 ~~program and instructions for carrying out and controlling~~  
10 ~~machine processing of information derived from the voter file.~~  
11 ~~Program records shall exist in written English or coded form~~  
12 ~~and they may exist on active data processing media;~~

13 ~~I. "mailing labels" means prepared mailing labels~~  
14 ~~of selected voters arranged in the order in which requested and~~  
15 ~~providing only the name and address of the voter;~~

16 ~~J. "special voter lists" means prepared lists of~~  
17 ~~selected voters arranged in the order in which requested;~~

18 ~~K. "statistical data" means information derived~~  
19 ~~from the voter file;~~

20 ~~L. "voter data" means selected information derived~~  
21 ~~from the voter file;~~

22 ~~M. "data processor" means a data processing~~  
23 ~~facility and associated employees and agents thereof contracted~~  
24 ~~to provide data processing services required by the Automated~~  
25 ~~Voter Records System Act;~~

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1                   N. ~~"file maintenance list" means any prepared~~  
2 ~~listing that reflects additions, deletions or changes to the~~  
3 ~~voter file;~~

4                   O. ~~"precinct voter list" means a voter list~~  
5 ~~arranged in alphabetical order of voter surname within and for~~  
6 ~~each precinct;~~

7                   P. ~~"county voter list" means a voter list arranged~~  
8 ~~in alphabetical order of voter surname within and for each~~  
9 ~~county;~~

10                  Q. ~~"unofficial election canvassing file" means the~~  
11 ~~compilation by the county clerk of the results of any election~~  
12 ~~prior to official certification of the election results;~~

13                  R. ~~"unofficial election canvassing system" means~~  
14 ~~the automated data processing computer program used to create~~  
15 ~~the unofficial election canvassing file;~~

16                  S. ~~"election campaign purposes" means relating in~~  
17 ~~any way to a campaign in an election conducted by a federal,~~  
18 ~~state or local government; and~~

19                  T. ~~"governmental purposes" means noncommercial~~  
20 ~~purposes relating in any way to the structure, operation or~~  
21 ~~decision-making of a federal, state or local government]~~

22                  B. "county register" means an official file of  
23 original certificates of registration of the county or any of  
24 its precincts;

25                  C. "county voter list" means a voter list arranged

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1 in alphabetical order of voter surname within and for each  
2 county;

3 D. "data processor" means a data processing  
4 facility and its associated employees and agents contracted to  
5 provide data processing services required by the Voter Records  
6 System Act;

7 E. "data recording media" means a manual,  
8 electronic or other device containing data capable of being  
9 read and processed by any means for the eventual preparation of  
10 voter lists;

11 F. "election campaign purposes" means relating in  
12 any way to a campaign in an election conducted by a federal,  
13 state or local government;

14 G. "file maintenance list" means any prepared  
15 listing that reflects additions, deletions or changes to the  
16 voter file;

17 G. "governmental purposes" means noncommercial  
18 purposes relating in any way to the structure, operation or  
19 decision-making of a federal, state or local government;

20 I. "mailing labels" mean prepared mailing labels of  
21 selected voters arranged in the order in which requested and  
22 providing only the name and address of the voter;

23 J. "precinct voter list" means a voter list  
24 arranged in alphabetical order of voter surname within and for  
25 each precinct;

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1           K. "signature roster" means a copy of a voter list  
2 with space provided opposite each voter's name for the voter's  
3 signature or witnessed mark;

4           L. "special voter list" means a prepared list of  
5 selected voters arranged in the order in which requested;

6           M. "voter data" means selected information derived  
7 from the voter file;

8           N. "voter file" means all voter registration  
9 information required by law and by the secretary of state that  
10 has been extracted from the certificate of registration of each  
11 voter in the county, stored on data recording media and  
12 certified by the county clerk as the source of all information  
13 required by the Voter Records System Act; and

14           O. "voter list" means any prepared list of voters."

15           Section 11. Section 1-5-3 NMSA 1978 (being Laws 1969,  
16 Chapter 240, Section 105, as amended by Laws 1993, Chapter 314,  
17 Section 33 and also by Laws 1993, Chapter 316, Section 33) is  
18 amended to read:

19           "1-5-3. ACT IS MANDATORY AND SUPPLEMENTAL TO ELECTION  
20 CODE.--

21           A. [~~Effective January 1, 1984~~] The [~~Automated~~]  
22 Voter Records System Act is mandatory and supplemental to the  
23 provisions of the Election Code. The provisions of that act  
24 shall be implemented in all counties by order of the [~~board of~~  
25 ~~county commissioners of the county in all precincts of a~~

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1 ~~county~~ secretary of state in accordance with the provisions of  
2 the federal Help America Vote Act of 2002.

3 B. The secretary of state shall maintain [~~a current~~  
4 ~~registration list of state voters~~] the official state voter  
5 file based on county [~~voter lists and~~] registers and shall  
6 provide access to the file to the county clerks. The secretary  
7 of state shall prescribe any rules, forms and instructions  
8 necessary [~~for the orderly transition to and the efficient~~  
9 ~~implementation of~~] to implement procedures required by the  
10 [~~Automated~~] Voter Records System Act and federal law. The  
11 secretary of state shall maintain a log, which shall be public,  
12 containing all transactions regarding requests for current  
13 registration lists of state voters. The log shall indicate the  
14 requesting party, the date of the request, the date of  
15 fulfilling the request, charges made and any other information  
16 deemed advisable by the secretary of state. Requests for  
17 registration lists in printed or [~~magnetic~~] electronic form  
18 shall be fulfilled within a period of ten working days.

19 C. All registration records required by the  
20 Election Code shall be maintained for each of the precincts in  
21 addition to those records required by the [~~Automated~~] Voter  
22 Records System Act [~~but the procedures of that act shall be~~  
23 ~~used in lieu of others prescribed in the Election Code~~] and  
24 federal law."

25 Section 12. Section 1-5-6 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 108, as amended) is amended to read:

2 "1-5-6. PRECINCT VOTER LISTS--SIGNATURE ROSTER  
3 PREPARATION--The county clerk shall provide for preparation of  
4 precinct voter lists and signature rosters generated from the  
5 official state voter file for any precincts. The voter  
6 precinct lists and signature rosters shall be used at any  
7 election for which registration of voters is required in lieu  
8 of bound original certificates of registration and poll books."

9 Section 13. Section 1-5-7 NMSA 1978 (being Laws 1969,  
10 Chapter 240, Section 109, as amended) is amended to read:

11 "1-5-7. PRECINCT VOTER LISTS--SIGNATURE ROSTERS--  
12 CONTENTS---

13 A. The precinct voter lists and signature rosters  
14 for any precinct shall contain for each voter, as shown in the  
15 county register, the voter's:

- 16 (1) [~~his~~] name;
- 17 (2) gender;
- 18 (3) place of residence;
- 19 (4) last four digits of the voter's social  
20 security number;
- 21 (5) year of birth;
- 22 (6) party affiliation, if any; and
- 23 (7) precinct of residence.

24 B. In addition, the names on each precinct voter  
25 list and signature roster shall be numbered consecutively

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1 beginning with the number "1".

2 C. On each page of each voter list and on each  
3 signature roster there shall be printed the page number and the  
4 date and name of the election for which they are to be used.

5 ~~[D. For those counties who, prior to June 18, 1993,  
6 utilized voter files that do not contain telephone numbers of  
7 registered voters, the provisions of Subsections J and L of  
8 Section 1-5-2 NMSA 1978 and Paragraph (4) of Subsection A of  
9 Section 1-5-7 NMSA 1978 regarding dissemination of voter  
10 telephone numbers shall apply only to individuals registering  
11 to vote after January 1, 1994.]"~~

12 Section 14. Section 1-5-8 NMSA 1978 (being Laws 1969,  
13 Chapter 240, Section 110, as amended) is amended to read:

14 "1-5-8. PRECINCT VOTER LISTS--SIGNATURE ROSTERS--NUMBER--  
15 DISTRIBUTION.--

16 A. One copy of the signature roster shall be  
17 prepared for each precinct. On the cover of [~~such~~] the  
18 signature roster shall be printed the words, "Copy for the  
19 County Clerk". Upon its preparation and certification as to  
20 its accuracy and completeness, the county clerk shall deliver  
21 the copy of the signature roster to the precinct board [~~in lieu~~  
22 ~~of the poll book~~].

23 B. The county clerk shall prepare three copies of  
24 the precinct voter list for each precinct. Of the three copies  
25 prepared, one copy shall not include voter social security

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1 numbers. [He] The other two shall contain only the last four  
2 digits of the voter's social security number. The county clerk  
3 shall deliver two of the copies to each precinct board [~~in lieu~~  
4 ~~of bound certificates of registration~~]. One copy of the voter  
5 list shall be retained by the county clerk for verification  
6 purposes on election day and one copy for the secretary of  
7 state shall be marked to verify those voters on the list who  
8 voted.

9 C. Two copies of the county voter list, arranged in  
10 alphabetical order, shall be prepared for election day for  
11 verification purposes only."

12 Section 15. Section 1-5-14 NMSA 1978 (being Laws 1969,  
13 Chapter 240, Section 118, as amended) is amended to read:

14 "1-5-14. FILE MAINTENANCE LISTS.--

15 A. At least once a month, the county clerk shall  
16 have made from the state voter file a file maintenance list of  
17 additions, deletions and changes, if any, to the county  
18 register.

19 [~~B. The county clerk shall be furnished with two~~  
20 ~~copies of the file maintenance lists.~~

21 ~~G.]~~ B. One copy of the list shall be stored by the  
22 county clerk for at least one year.

23 [~~D.]~~ C. The county clerk shall also [~~be furnished~~  
24 ~~with]~~ furnish copies of the list [~~to give]~~ to the county  
25 chairman of each of the major political parties in the county.

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1 The copy of the chairman's list shall indicate whether each  
2 item is an addition, deletion or change. The file maintenance  
3 list shall not include the voter's social security number,  
4 codes used to identify the agency where the voter registered,  
5 the voter's day and month of birth or the voter's telephone  
6 number, if prohibited by the voter.

7 ~~[E. Beginning the first Monday of February of an~~  
8 ~~election year and every month thereafter, the county clerks~~  
9 ~~shall furnish the secretary of state with a copy of the voter~~  
10 ~~file, except that during the months of April and September of~~  
11 ~~an election year, the county clerks shall furnish a copy of the~~  
12 ~~voter file to the secretary of state at least one time each~~  
13 ~~week. The final copy shall be furnished to the secretary of~~  
14 ~~state by the county clerks within seven days of the close of~~  
15 ~~registration.]"~~

16 Section 16. Section 1-5-17 NMSA 1978 (being Laws 1969,  
17 Chapter 240, Section 122, as amended) is amended to read:

18 "1-5-17. [~~PROGRAM RECORDS~~] VOTER REGISTRATION SYSTEM  
19 SOFTWARE--INSTRUCTIONS--STATUS--PROTECTION.--

20 A. [~~Program records~~] Voter registration system  
21 software and instructions for [~~their~~] its use in controlling  
22 the processing of information derived from the voter file shall  
23 be verified functionally, identified and approved by the  
24 secretary of state.

25 ~~[B. Program records and instructions for their use~~

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1 ~~shall remain the property of the designated data processor.~~

2           G.] B. Verified, identified and approved [~~program~~  
3 ~~records~~] voter registration system software and instructions  
4 shall be safeguarded at all times against loss or damage. The  
5 designated data processor shall be in charge of these  
6 safeguards subject to approval by the secretary of state."

7           Section 16. Section 1-5-18 NMSA 1978 (being Laws 1969,  
8 Chapter 240, Section 124, as amended) is amended to read:

9           "1-5-18. LIST AND ROSTER PREPARATION--COMPATIBLE  
10 DUPLICATE MEANS.--

11           A. The [~~county clerk~~] secretary of state shall  
12 [~~employ such~~] provide to the county clerk means for the  
13 preparation of voter lists and signature rosters [~~as can be~~  
14 ~~functionally duplicated elsewhere with reasonable cost and~~  
15 ~~convenience~~].

16           B. At least one compatible duplicate means shall be  
17 provided for on a standby basis, and it shall be capable of  
18 performing the preparation of voter lists and signature rosters  
19 with minimum delay in case the original means is unable to  
20 perform.

21           C. The [~~county clerk~~] secretary of state shall  
22 procure and preserve sufficient duplicate [~~program information~~]  
23 voter registration system software and operating instructions  
24 [~~with each duplicate program record~~] so that in case of  
25 disaster the duplicate master record and the duplicate [~~program~~

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1 ~~record and the duplicate additional program information]~~ voter  
2 registration system software and operating instructions will be  
3 all that will be required for another compatible facility to  
4 prepare registered voter lists and signature rosters with  
5 minimum delay."

6 Section 18. Section 1-5-21 NMSA 1978 (being Laws 1975,  
7 Chapter 255, Section 75, as amended) is amended to read:

8 "1-5-21. DATA PROCESSOR--CUSTODY AND PROTECTION OF VOTER  
9 FILE--DELIVERY OF VOTER FILE AND PROGRAM RECORDS.--

10 A. The designated data processor shall provide the  
11 secretary of state, county clerk or county with data processing  
12 services in the implementation and maintenance of the  
13 [~~Automated~~] Voter Records System Act and in carrying out such  
14 other services as are reasonably related to providing  
15 [~~automated~~] data processing of the voter records system.

16 B. The designated data processor [~~shall be~~  
17 ~~responsible for the identification of the voter file and~~  
18 ~~program records and parts thereof and]~~ shall preserve and  
19 safeguard [~~them~~] voter files and voter registration system  
20 software from loss, damage, unauthorized alteration,  
21 unauthorized access [~~thereto~~] and unauthorized reproduction  
22 [~~thereof~~] and shall [~~insure~~] ensure their continued use and  
23 accessibility while [~~such file and records~~] they are in the  
24 data processor's custody.

25 C. No copies of the voter file or information or

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1 listings derived therefrom shall be furnished by the data  
2 processor to any person other than the secretary of state, the  
3 county clerk or [~~his~~] their designated [~~agent~~] agents.

4 [~~D. The designated data processor shall provide the~~  
5 ~~county clerk of the county with data processing services in the~~  
6 ~~implementation and maintenance of the unofficial election~~  
7 ~~canvassing system.~~

8 [~~E. The unofficial election canvassing system shall~~  
9 ~~be tested by the secretary of state at least thirty days prior~~  
10 ~~to an election.~~

11 [~~F. The secretary of state shall certify the~~  
12 ~~unofficial election canvassing system of any county at least~~  
13 ~~twenty days prior to an election.]"~~

14 Section 19. Section 1-5-22 NMSA 1978 (being Laws 1975,  
15 Chapter 255, Section 76) is amended to read:

16 "1-5-22. UNLAWFUL DISPOSITION OF VOTER FILE--PENALTY.--

17 A. Unlawful disposition of voter file consists of  
18 the willful selling, loaning, providing access to or otherwise  
19 surrendering of the voter file, duplicates of [~~such~~] the file  
20 or a part [~~thereof~~] of the file by [~~any of the following~~  
21 ~~persons: (1)] a data processor; [~~(2) his~~] a data processor's  
22 agent or employee; [~~(3)~~] a state or county officer; [~~(4) his~~]  
23 or a state or county officer's deputy, [~~or~~] assistant, [~~or (5)~~  
24 ~~his~~] employee or agent to anyone not authorized by the  
25 [~~Automated~~] Voter Records System Act to have possession of~~

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1     ~~such~~ the file.

2             B. For purposes of this section, a file maintenance  
3 list shall be considered a voter file or a part ~~thereof~~ of a  
4 voter file.

5             C. Any data processor, officer, deputy, assistant,  
6 agent or employee who commits unlawful disposition of a voter  
7 file is guilty of a fourth degree felony."

8             Section 20. Section 1-5-23 NMSA 1978 (being Laws 1975,  
9 Chapter 255, Section 77) is amended to read:

10            "1-5-23. UNLAWFUL DESTRUCTION OR ALTERATION OF ~~ACTIVE~~  
11 DATA ~~PROCESSING~~ RECORDING MEDIA, VOTER FILE, FILE MAINTENANCE  
12 LIST, ~~PROGRAM RECORDS~~ VOTER REGISTRATION SYSTEM SOFTWARE,  
13 INSTRUCTIONS AND VOTER LISTS--PENALTY.--

14            A. Unlawful destruction or alteration of ~~active~~  
15 data ~~processing~~ recording media, voter ~~file~~ files, file  
16 maintenance ~~list, program records~~ lists, voter registration  
17 system software and instructions or voter lists consists of the  
18 unauthorized destruction of, ~~or~~ the unauthorized alteration  
19 of, ~~or~~ the erasure of information from or the rendering  
20 unusable for their lawfully intended purpose of such media,  
21 files, ~~records~~ software, instructions and lists or parts  
22 thereof by any person.

23            B. Any person who commits unlawful destruction or  
24 alteration of ~~active~~ data ~~processing~~ recording media, voter  
25 file, file maintenance lists, ~~program records~~ voter

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1 registration system software, instructions or voter lists is  
2 guilty of a fourth degree felony."

3 Section 21. Section 1-5-24 NMSA 1978 (being Laws 1975,  
4 Chapter 255, Section 78, as amended) is amended to read:

5 "1-5-24. REQUESTS FOR [~~STATISTICAL DATA~~] VOTER DATA,  
6 MAILING LABELS OR SPECIAL VOTER LISTS.--

7 A. The county clerk or secretary of state shall  
8 [~~authorize the data processor to~~] furnish [~~statistical data~~]  
9 voter data, mailing labels or special voter lists only upon  
10 written request to the county clerk or the secretary of state  
11 and after compliance with the requirements of this section;  
12 provided, however, all requesters shall be treated equally [~~by~~  
13 ~~the data processor~~] in regard to the charges and the furnishing  
14 of the materials.

15 B. In furnishing voter data, mailing labels or  
16 special voter lists, the county clerk or secretary of state  
17 shall not provide data or lists that include voters' social  
18 security numbers, codes used to identify agencies where voters  
19 have registered, a voter's day and month of birth or voters'  
20 telephone numbers if prohibited by voters.

21 C. Each requester of voter data, mailing labels or  
22 special voter lists shall sign an affidavit that the voter  
23 data, mailing labels and special voter lists shall be used for  
24 governmental or election and election campaign purposes only  
25 and shall not be made available or used for unlawful purposes.

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1           ~~[D. Each requester of statistical data shall sign~~  
2 ~~an affidavit that such statistical data shall be used for~~  
3 ~~information or research purposes only and shall not be made~~  
4 ~~available or used for unlawful purposes.~~

5           ~~E.]~~ D. The secretary of state shall prescribe the  
6 form of the affidavit."

7           Section 22. Section 1-5-25 NMSA 1978 (being Laws 1975,  
8 Chapter 255, Section 79, as amended) is amended to read:

9           "1-5-25. ~~[UNLAWFUL USE OF STATISTICAL DATA]~~ UNLAWFUL USE  
10 OF VOTER DATA, MAILING LABELS OR SPECIAL VOTER LISTS--  
11 PENALTIES.--

12           ~~[A. Unlawful use of statistical data consists of~~  
13 ~~use of statistical data in such a manner as to derive~~  
14 ~~information, the use or possession of which would be otherwise~~  
15 ~~prohibited under the Automated Voter Records System Act.~~

16           ~~B.]~~ A. Unlawful use of voter data, mailing labels  
17 or special voter lists consists of the knowing and willful use  
18 of such information for purposes prohibited by the ~~[Automated]~~  
19 Voter Records System Act.

20           ~~[C.]~~ B. Any person, organization or corporation or  
21 agent, officer, representative or employee thereof who commits  
22 unlawful use of ~~[statistical data]~~ voter data, mailing labels  
23 or special voter lists is guilty of a fourth degree felony and  
24 upon conviction shall be fined one hundred dollars (\$100) for  
25 each and every line of voter information ~~[which]~~ that was

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1 unlawfully used.

2           ~~[D.]~~ C. Each and every unlawful use of [~~statistical~~  
3 ~~data~~] voter data, mailing labels or special voter lists  
4 constitutes a separate offense."

5           Section 23. Section 1-5-26 NMSA 1978 (being Laws 1975,  
6 Chapter 255, Section 80) is amended to read:

7           "1-5-26. CONTRACTUAL AGREEMENT REQUIRED WITH DATA  
8 PROCESSOR.--~~[A. Each county implementing the Automated Voter~~  
9 ~~Records System Act]~~ The secretary of state shall enter into a  
10 written contractual agreement with the data processor  
11 notwithstanding the fact that the data processor may be a  
12 department of [~~county, municipal or~~] state government.  
13 [~~Parties to the contractual agreement shall be the county, the~~  
14 ~~county clerk and the data processor.~~

15           ~~B. All contractual agreements shall be approved by~~  
16 ~~the secretary of state, with the assistance of the automated~~  
17 ~~voter records system advisory committee, before they are valid.~~

18           ~~C. The secretary of state shall provide by~~  
19 ~~regulation the contractual provisions necessary for approval.]"~~

20           Section 24. Section 1-5-30 NMSA 1978 (being Laws 1989,  
21 Chapter 298, Section 1) is amended to read:

22           "1-5-30. SECRETARY OF STATE--ESTABLISHMENT OF STATEWIDE  
23 COMPUTERIZED VOTER REGISTRATION SYSTEM.--

24           A. The secretary of state shall develop, implement,  
25 establish and supervise a statewide computerized voter

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1 registration system that complies with the federal Help America  
2 Vote Act of 2002 to facilitate voter registration and to  
3 provide a central database containing voter registration  
4 information for New Mexico.

5 B. The statewide computerized voter registration  
6 system shall:

7 (1) provide for the establishment and  
8 maintenance of a central database for all voter registration  
9 information;

10 (2) permit the offices of all county clerks to  
11 add, modify and delete county information from the system to  
12 provide for accurate and up-to-date records;

13 (3) permit the offices of the county clerks  
14 and the bureau of elections to have access to the central  
15 database for review and search capabilities;

16 (4) provide security and protection for all  
17 information in the central database and monitor the central  
18 database to ensure the prevention of unauthorized entry;

19 (5) provide procedures for entering data into  
20 the central database; and

21 (6) provide a centralized system for each  
22 county to ~~[identify]~~ enter the precinct to which a voter should  
23 be assigned for voting purposes [~~and~~

24 ~~(7) prescribe a procedure for phasing in or~~  
25 ~~converting existing computerized records generated and~~

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1 ~~maintained pursuant to the Automated Voter Records System~~  
2 ~~Act]."~~

3 Section 25. Section 1-5-31 NMSA 1978 (being Laws 1989,  
4 Chapter 298, Section 2) is amended to read:

5 "1-5-31. UNIFORM PROCEDURES FOR COUNTIES.--The secretary  
6 of state shall:

7 A. assist county clerks by devising uniform  
8 procedures and forms that are compatible with the statewide  
9 computerized voter registration system;

10 B. ~~[develop and]~~ provide to each county clerk the  
11 computer software necessary for the use and maintenance of the  
12 statewide computerized voter registration system; and

13 C. adopt such rules and regulations as are  
14 necessary to establish and administer the statewide  
15 computerized voter registration system and to require deadlines  
16 and time limits for the updating of voter files ~~[and to provide~~  
17 ~~for the update of voter files at each polling place for the~~  
18 ~~next election]."~~

19 Section 26. Section 1-6-4 NMSA 1978 (being Laws 1969,  
20 Chapter 240, Section 130, as amended by Laws 2003, Chapter 356,  
21 Section 18 and by Laws 2003, Chapter 357, Section 1) is amended  
22 to read:

23 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED  
24 ELECTOR--OVERSEAS VOTER.--

25 A. Application by a federal qualified elector or an

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1 overseas voter for an absentee ballot shall be made on the  
2 official postcard form prescribed or authorized by the federal  
3 government to the county clerk of the county of his residence.  
4 The form shall allow the applicant to receive an absentee  
5 ballot for all elections within an election cycle.

6 B. Application by a voter for an absentee ballot  
7 shall be made only on a form prescribed, printed and furnished  
8 by the secretary of state to the county clerk of the county in  
9 which the voter resides. The form shall identify the applicant  
10 and contain information to establish ~~[his]~~ the voter's  
11 qualification for issuance of an absentee ballot under the  
12 Absent Voter Act; provided that on the application form for a  
13 general election ballot there shall be no box, space or place  
14 provided for designation of the voter's political party  
15 affiliation. ~~[The form shall allow the applicant to receive an~~  
16 ~~absentee ballot for all elections within an election cycle.]~~

17 C. Each application for an absentee ballot shall be  
18 subscribed by the applicant. The application shall be  
19 delivered to the county clerk by the applicant in person or by  
20 mail.

21 D. An application for an absentee ballot by a  
22 federal qualified elector or an overseas voter shall be  
23 accepted at any time preceding the general election."

24 Section 27. Section 1-6-5.4 NMSA 1978 (being Laws 1999,  
25 Chapter 267, Section 3) is amended to read:

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1 "1-6-5.4. SECURITY--COUNTING AND CANVASSING.--

2 A. The secretary of state shall adopt rules for  
3 protecting the integrity, security and secrecy of the absentee  
4 ballots, including procedures specifying that machines and  
5 ballot containers remain locked and that ballots not be removed  
6 prior to election day; procedures for voting by absentee  
7 ballot; separation of absentee ballots voted on electronic  
8 voting machines twenty days before the election from those  
9 received through the mail; disposition of absentee ballots  
10 rejected by a voting machine; and handling of, registering,  
11 counting and canvassing of absentee ballots [~~and sorting of~~  
12 ~~absentee ballots by representative district for canvassing~~  
13 ~~purposes~~].

14 B. "Registering of absentee ballots" means  
15 inserting the paper absentee ballot into an electronic voting  
16 system for recording and retention until votes may be counted  
17 and canvassed."

18 Section 28. Section 1-6-6 NMSA 1978 (being Laws 1969,  
19 Chapter 240, Section 132, as amended by Laws 2003, Chapter 356,  
20 Section 21 and by Laws 2003, Chapter 357, Section 3) is amended  
21 to read:

22 "1-6-6. ABSENTEE BALLOT REGISTER.--

23 A. For each election, the county clerk shall keep  
24 an "absentee ballot register", in which [he] the county clerk  
25 shall enter:

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- 1 (1) the name and address of each absentee  
2 ballot applicant;
- 3 (2) the date and time of receipt of the  
4 application;
- 5 (3) whether the application was accepted or  
6 rejected;
- 7 (4) the date of issue of an absentee ballot in  
8 the county clerk's office or at an alternate location or the  
9 mailing of an absentee ballot to the applicant;
- 10 (5) the applicant's precinct;
- 11 (6) whether the applicant is a voter, a  
12 federal voter, a federal qualified elector or an overseas  
13 voter;
- 14 (7) whether the voter is required to submit  
15 identification pursuant to Section 1-6-5 NMSA 1978; and
- 16 (8) the date and time the completed absentee  
17 ballot was received from the applicant by the county clerk or  
18 the date and time the absent voter voted early in person in the  
19 county clerk's office or at an alternate location.

20 B. Within twenty-four hours after receipt of a  
21 voter's application for an absentee ballot, the county clerk  
22 shall mail either the ballot, if it is within twenty-eight days  
23 of election day, or a notice of rejection to the applicant.

24 C. The absentee ballot register [~~is~~] shall be  
25 considered a public record open to public inspection in the

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1 county clerk's office [~~during regular office hours. The county~~  
2 ~~clerk shall have an updated absentee ballot register available~~  
3 ~~for public inspection Monday through Friday during regular~~  
4 ~~office hours]~~ pursuant to the Inspection of Public Records Act.

5 D. The county clerk shall deliver to the absent  
6 voter precinct on election day a complete list of all absentee  
7 ballot applicants and early voters with applicable information  
8 shown in the absentee ballot register for each applicant and  
9 early voter up to 6:00 p.m. on the Saturday preceding the  
10 election. The county clerk shall deliver a signature roster  
11 containing the same information as the lists to the absent  
12 voter precinct board.

13 E. The county clerk shall transmit to the secretary  
14 of state and to the county chairman of each of the major  
15 political parties in the county a complete copy of entries made  
16 in the absentee ballot register. Such transmissions shall be  
17 made once each week beginning four weeks immediately prior to  
18 the election. A final copy shall be transmitted on the  
19 Saturday immediately following the election.

20 F. If the county clerk has available the technology  
21 to do so, at the request of a candidate or chair of a political  
22 party of the county, the county clerk shall on election day  
23 electronically transmit to the candidate or chair via the  
24 internet the information [~~when updated~~] on the absentee ballot  
25 register indicating voters who have requested absentee ballots,

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1 returned their absentee ballots or voted early in person."

2 Section 29. Section 1-6-10 NMSA 1978 (being Laws 1969,  
3 Chapter 240, Section 136, as amended) is amended to read:

4 "1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK.--

5 A. The county clerk shall mark on each completed  
6 official mailing envelope the date and time of receipt in the  
7 clerk's office, record this information in the absentee ballot  
8 register and safely keep the official mailing envelope unopened  
9 in a locked and number-sealed ballot box [~~except as provided in~~  
10 ~~Subsection H of Section 1-6-14 NMSA 1978~~] until it is delivered  
11 [~~on election day~~] to the proper absent voter precinct board or  
12 until it is canceled and destroyed in accordance with law.

13 B. The county clerk shall accept completed official  
14 mailing envelopes until 7:00 p.m. on election day. Any  
15 completed official mailing envelope received after that time  
16 shall not be delivered to a precinct board but shall be  
17 preserved by the county clerk until the time for election  
18 contests has expired. In the absence of a restraining order  
19 after expiration of the time for election contests, the county  
20 clerk shall destroy all late official mailing envelopes without  
21 opening or permitting the contents to be examined, cast,  
22 counted or canvassed. Before their destruction, the county  
23 clerk shall count the numbers of late ballots from voters,  
24 federal voters, overseas citizen voters and federal qualified  
25 electors and report the number from each category to the

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1 secretary of state.

2 C. At 5:00 p.m. on the Monday immediately preceding  
3 the date of election, the county clerk shall record the numbers  
4 of the unused absentee ballots and shall publicly destroy in  
5 the county clerk's office all such unused ballots. The county  
6 clerk shall execute a certificate of destruction, which shall  
7 include the numbers on the absentee ballots destroyed. A copy  
8 of the certificate of destruction shall be sent to the  
9 secretary of state."

10 Section 30. Section 1-6-11 NMSA 1978 (being Laws 1969,  
11 Chapter 240, Section 137, as amended) is amended to read:

12 "1-6-11. DELIVERY OF ABSENTEE BALLOTS TO ABSENT VOTER  
13 PRECINCTS.--

14 A. On the Thursday immediately preceding election  
15 day, the county clerk shall deliver to the special deputy  
16 county clerks for delivery to the absent voter precinct board  
17 the absentee ballots received prior to that day. The special  
18 deputy county clerk shall issue a receipt for all ballots  
19 delivered for the county clerk and shall observe the listing of  
20 the names on the official mailing envelopes in the signature  
21 rosters. The special deputy county clerk shall then obtain a  
22 receipt executed by the presiding judge and each election judge  
23 and shall return the receipt to the county clerk for filing.  
24 The receipts shall specify the number of envelopes received by  
25 the special deputy county clerk from the county clerk for the

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1 absent voter precinct and the number of envelopes received by  
2 the absent voter precinct board from the special deputy county  
3 clerk.

4           ~~[A.]~~ B. On election day, the county clerk shall  
5 deliver the absentee ballots received after the Wednesday  
6 immediately preceding election day but prior to 7:00 p.m. on  
7 election day to the special deputy county clerks for delivery  
8 to the absent voter precinct boards. ~~[The absentee ballots for~~  
9 ~~each absent voter precinct shall be separately wrapped, and]~~  
10 The special deputy county clerk shall issue a receipt for all  
11 ballots delivered for the county clerk ~~[Upon delivery of the~~  
12 ~~absentee ballots to the absent voter precinct board, the~~  
13 ~~special deputy county clerk shall remain in the polling place~~  
14 ~~of the absent voter precinct until he has observed the opening~~  
15 ~~of the official mailing envelope, the deposit of the ballot in~~  
16 ~~the locked ballot box]~~ and shall observe the listing of the  
17 names on the official mailing envelope in the signature  
18 rosters. ~~[Upon such delivery of absentee ballots]~~ The special  
19 deputy county clerk shall then obtain a receipt executed by the  
20 presiding judge and each election judge and ~~[he]~~ shall return  
21 ~~[such]~~ the receipt to the county clerk for filing. The  
22 receipts shall specify the number of envelopes received by the  
23 special deputy county clerk from the county clerk for each  
24 absent voter precinct and the number of envelopes received by  
25 the absent voter precinct board from the special deputy county

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1 clerk.

2 ~~[B. At 7:00 a.m. on election day]~~ C. The county  
3 clerk shall deliver the electronic voting machines used for  
4 absentee voting by mail to the absent voter precinct board when  
5 the board meets to process the absentee ballots. The machines  
6 shall not be used to vote on or count additional ballots for  
7 that election. A special deputy county clerk shall issue a  
8 receipt for each voting machine. Upon delivery of a voting  
9 machine, the special deputy shall:

10 (1) obtain a receipt executed by the presiding  
11 judge and each election judge specifying the serial number and  
12 the seal number of the machine ~~[and shall]~~;

13 (2) verify the public counter number on the  
14 machine ~~[and he shall]~~; and

15 (3) return the receipt to the county clerk for  
16 filing."

17 Section 31. Section 1-6-14 NMSA 1978 (being Laws 1971,  
18 Chapter 317, Section 11, as amended by Laws 2003, Chapter 354,  
19 Section 1 and by Laws 2003, Chapter 356, Section 22) is amended  
20 to read:

21 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER  
22 PRECINCT BOARDS.--

23 A. Before opening an official mailing envelope, the  
24 presiding judge and the election judges shall determine that  
25 the required information has been completed on the reverse side

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1 of the official mailing envelope.

2 B. If the voter's signature is missing, the  
3 presiding judge shall write "Rejected" on the front of the  
4 official mailing envelope. The election clerks shall enter the  
5 voter's name in the signature rosters and shall write the  
6 notation "Rejected--Missing Signature" in the "Notations"  
7 column of the signature rosters. The presiding judge shall  
8 place the official mailing envelope unopened in an envelope  
9 provided for rejected ballots, seal the envelope and write the  
10 voter's name on the front of the envelope and deposit it in the  
11 locked ballot box.

12 C. A lawfully appointed challenger may examine the  
13 official mailing envelope and may challenge the ballot of any  
14 absent voter for the following reasons:

15 (1) the official mailing envelope has been  
16 opened prior to being received by the absent voter precinct  
17 board; or

18 (2) the person offering to vote is not a  
19 federal voter, federal qualified elector, overseas voter or  
20 voter as provided in the Election Code.

21 Upon the challenge of an absentee ballot, the election  
22 judges and the presiding election judge shall follow the same  
23 procedure as when ballots are challenged when a person attempts  
24 to vote in person. If a challenge is upheld, the official  
25 mailing envelope shall not be opened but shall be placed in an

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1 envelope provided for challenged ballots. The same procedure  
2 shall be followed in canvassing and determining the validity of  
3 challenged absentee ballots as with other challenged ballots.

4 D. If the official mailing envelope has been  
5 properly subscribed and the voter has not been challenged:

6 [~~(1) the election judges shall open the~~  
7 ~~official mailing envelope and deposit the ballot in its still-~~  
8 ~~sealed official inner envelope in the locked ballot box; and~~

9 ~~(2)]~~ (1) the election clerks shall enter the  
10 absent voter's name and residence address as shown on the  
11 official mailing envelope in the signature rosters and shall  
12 mark the notation "AB" opposite the voter's name in the  
13 "Notations" column of the signature rosters; and

14 (2) under the personal supervision of the  
15 presiding election judge, the election judges shall open the  
16 official mailing envelope and the official inner envelope and  
17 insert the enclosed ballot into an electronic voting system to  
18 be registered and retained until votes are counted and  
19 canvassed following the closing of the polls on election night.

20 E. [~~Prior to the closing of the polls, the election~~  
21 ~~judges and the presiding election judge may either remove the~~  
22 ~~absentee ballots from the official inner envelopes and count~~  
23 ~~and tally the results of absentee balloting or, under the~~  
24 ~~personal supervision of the presiding election judge and one~~  
25 ~~election judge from each major political party, count and tally~~

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1 ~~the absentee ballots on an electronic voting machine the same~~  
2 ~~as if the absent voters had been present and voted in person.]~~

3 It is unlawful for a person to disclose the results of a count  
4 and tally or the registration on a voting machine of absentee  
5 ballots prior to the closing of the polls.

6 F. Absentee ballots shall be counted and tallied on  
7 an electronic voting machine as provided in the Election Code.

8 G. Absent voter precinct polls shall close at the  
9 time prescribed by the Election Code for other polling places,  
10 and the results of the election shall be certified as  
11 prescribed by the secretary of state.

12 ~~[H. The county clerk may convene the absent voter~~  
13 ~~precinct board no more than three days before the day of the~~  
14 ~~election to alphabetize, enter on the roster and sort the~~  
15 ~~absentee ballots by legislative district; provided that a~~  
16 ~~member of the absent voter precinct board shall not open an~~  
17 ~~official mailing envelope or count and canvass any absentee~~  
18 ~~ballot prior to the day of the election.~~

19 ~~F.]~~ H. If an absentee ballot does not contain the  
20 identification required pursuant to Subsection D of Section  
21 1-6-5 NMSA 1978, it shall be handled as a provisional paper  
22 ballot in accordance with the Election Code."

23 Section 32. Section 1-6-20 NMSA 1978 (being Laws 1969,  
24 Chapter 54, Section 3, as amended) is amended to read:

25 "1-6-20. CREATION OF ABSENT VOTER PRECINCT.--

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1           A. The board of county commissioners shall adopt a  
2 resolution creating, for absent voting purposes only, an absent  
3 voter precinct for each [~~state representative district in the~~  
4 ~~county. The boundaries of such precinct shall coincide with~~  
5 ~~the boundaries of the state representative district except for~~  
6 ~~multicounty representative districts. In multicounty~~  
7 ~~representative districts, the boundaries of the absent voter~~  
8 ~~precinct in each county shall coincide with the boundaries of~~  
9 ~~that portion of the representative district lying within the]~~  
10 county.

11           B. Absent voter precincts shall be identified by  
12 the name of the county [~~and the state representative district~~  
13 ~~number. In the case of multicounty representative districts,~~  
14 ~~the absent voter precinct in each county shall be distinguished~~  
15 ~~by the name of the county]."~~

16           Section 33. Section 1-6-22 NMSA 1978 (being Laws 1969,  
17 Chapter 54, Section 4, as amended) is amended to read:

18           "1-6-22. DESIGNATION OF ABSENT VOTER PRECINCT POLLING  
19 PLACE.--The board of county commissioners of each county shall  
20 designate a polling place in each absent voter precinct at the  
21 time [~~such~~] the precinct is created [~~or consolidated~~]."

22           Section 34. Section 1-6-23 NMSA 1978 (being Laws 1975,  
23 Chapter 255, Section 95, as amended) is amended to read:

24           "1-6-23. ABSENT VOTER PRECINCT POLLING PLACE--HOURS ON  
25 ELECTION DAY AND SUBSEQUENT DAYS.--The county clerk or

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1       statutorily appointed supervisor of the election shall  
2       determine the hours during which the absent voter precinct  
3       polling place shall be open for delivery and registering of  
4       absentee ballots on the five days preceding election day and  
5       the delivery, registering and counting of ballots on election  
6       day and subsequent days until all ballots are counted."

7               Section 35. Section 1-5-10 NMSA 1978 (being Laws 1969,  
8       Chapter 240, Section 112, as amended) is recompiled as Section  
9       1-12-7.1 NMSA 1978 and is amended to read:

10              "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--USE DURING  
11       ELECTION.--

12              A. Each precinct board using voter lists shall post  
13       securely at or near the entrance of the polling place one copy  
14       of the precinct voter list for use of the voters prior to  
15       voting. The posted copy shall not contain a listing of voter  
16       social security numbers.

17              B. The presiding judge of the precinct board shall  
18       assign one judge of the board to be in charge of one copy of  
19       the precinct voter list, which shall be used to confirm the  
20       registration and voting of each person offering to vote.

21              C. The presiding judge of the precinct board shall  
22       assign one election clerk to be in charge of the signature  
23       roster.

24              D. The judge assigned to the precinct voter list  
25       used for confirmation of registration and voting shall

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1 determine that each person offering to vote is registered and,  
2 in the case of a primary election, that the voter is registered  
3 in a party designated on the primary election ballot. If the  
4 person's registration is confirmed by the presence of [~~his~~] the  
5 person's name on the voter list [~~or if the person presents a~~  
6 ~~certificate under the seal and signature of the county clerk~~  
7 ~~showing that he is entitled to vote in the election and to vote~~  
8 ~~in that precinct~~], the judge shall announce to the election  
9 clerks the list number and the name of the voter as shown on  
10 the voter list.

11 E. The election clerk shall locate that list number  
12 and name on the signature roster and shall require the voter to  
13 sign [~~his~~] the voter's usual signature or, if unable to write,  
14 to make [~~his~~] the voter's mark opposite [~~his~~] the voter's  
15 printed name. If the voter makes [~~his~~] the voter's mark, it  
16 shall be witnessed by one of the judges of the precinct board.  
17 If the signature roster indicates that the voter is required to  
18 present a form of identification before voting, the election  
19 judge shall ask the voter for a current and valid photo  
20 identification or a copy of a current utility bill, bank  
21 statement, government check, paycheck or other government  
22 document that shows and matches the name and address of the  
23 voter as indicated on the signature roster. If the voter does  
24 not provide the required identification, [~~he~~] the voter shall  
25 be allowed to vote on a provisional paper ballot.

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1 F. The election judge shall follow the procedures  
2 provided for in Sections [~~1-5-12~~] 1-12-7.2 and 1-12-8 NMSA 1978  
3 if a person whose name does not appear on the signature list  
4 requests to vote or a person is required to vote on a  
5 provisional paper ballot.

6 G. A voter shall not be permitted to vote until  
7 [~~he~~] the voter has properly signed [~~his~~] the voter's usual  
8 signature or made [~~his~~] the voter's mark in the signature  
9 roster.

10 H. After the poll is closed, the election clerk in  
11 charge of a signature roster shall draw a single horizontal  
12 line in ink through each signature space in the signature  
13 roster where no signature or mark appears."

14 Section 36. Section 1-12-12 NMSA 1978 (being Laws 1969,  
15 Chapter 240, Section 265, as amended) is amended to read:

16 "1-12-12. CONDUCT OF ELECTION--ELIGIBILITY FOR  
17 ASSISTANCE.--A voter may request assistance in voting only if  
18 the voter:

- 19 A. [~~he~~] is blind;  
20 B. [~~he~~] is physically disabled;  
21 C. [~~he~~] is unable to read or write; [~~or~~]  
22 D. [~~he~~] is a member of a language minority who has  
23 an inability to read well enough to exercise the elective  
24 franchise; or  
25 E. requires assistance in operating the voting

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1 system."

2 Section 37. Section 1-12-15 NMSA 1978 (being Laws 1969,  
3 Chapter 240, Section 267, as amended) is amended to read:

4 "1-12-15. CONDUCT OF ELECTION--PERSONS WHO MAY ASSIST  
5 VOTER.--

6 A. In any primary, general or statewide special  
7 election, if a voter who has requested assistance in marking  
8 [~~his~~] the ballot is blind, has a physical disability, has an  
9 inability to read or write or is a member of a language  
10 minority who has requested assistance pursuant to Subsection D  
11 of Section 1-12-12 NMSA 1978, [~~he~~] the voter may be accompanied  
12 into the voting machine only by a person of [~~his~~] the voter's  
13 own choice other than the voter's employer or an agent of that  
14 employer, an officer or agent of the voter's union or a  
15 candidate whose name appears on the ballot in this election.

16 B. The name of the person providing assistance to a  
17 voter pursuant to this section shall be recorded on the voter  
18 roster."

19 Section 38. Section 1-5-11 NMSA 1978 (being Laws 1969,  
20 Chapter 240, Section 113, as amended) is recompiled as Section  
21 1-12-30.1 NMSA 1978 and is amended to read:

22 "1-12-30.1. VOTER LISTS--SIGNATURE ROSTERS--DISPOSITION  
23 AFTER THE POLLS CLOSE.--

24 A. After the polls are closed, the signature roster  
25 shall be properly certified by the precinct board and returned

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1 to the county clerk with the election returns destined for the  
2 county clerk. The precinct voter list marked for the secretary  
3 of state shall be returned to the secretary of state with the  
4 election returns destined for the secretary of state.

5 B. The signed and certified signature rosters used  
6 in any election shall be considered a part of the election  
7 returns and treated accordingly. They shall be preserved and  
8 finally disposed of in the same manner as provided in the  
9 Election Code [~~for poll books~~] and 42 U.S.C. 1974.

10 C. [~~The punishment for willful destruction,~~  
11 ~~defacement, unauthorized alteration or improper disposition]~~  
12 Whoever willfully destroys, defaces, alters without  
13 authorization or improperly disposes of signature rosters used  
14 in an election [~~shall be the same as for similar treatment of~~  
15 ~~poll books~~] is guilty of a fourth degree felony."

16 Section 39. Section 1-12-53 NMSA 1978 (being Laws 1977,  
17 Chapter 222, Section 56, as amended) is amended to read:

18 "1-12-53. EMERGENCY SITUATIONS--VOTERS--EMERGENCY PAPER  
19 BALLOT--GENERAL ELECTION--MARKING.--The voter in preparing an  
20 emergency paper ballot in a general election shall

21 [~~A. if he wishes to vote a straight party ticket,~~  
22 ~~mark a cross (X) or a check (V) in the circle beneath the name~~  
23 ~~of the party and his vote shall be considered as having been~~  
24 ~~cast for every candidate named on the ticket of that party on~~  
25 ~~the ballot, unless he also votes for one or more candidates in~~

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1 ~~some other column or for some person whose name is not printed~~  
2 ~~on the ballot;~~

3 ~~B. if he marks a cross (X) or a check (V) in any~~  
4 ~~circle and also desires to vote for a candidate of another~~  
5 ~~political party (the ticket of which also appears on the~~  
6 ~~ballot) or for any person by write-in, mark a cross (X) or a~~  
7 ~~check (V) in the box immediately to the right of the name of~~  
8 ~~the candidate or write in the name of the person for whom he~~  
9 ~~desires to vote in the blank provided therefor and mark a cross~~  
10 ~~(X) or a check (V) in the box immediately to the right thereof,~~  
11 ~~and his vote shall be considered as having been cast for every~~  
12 ~~candidate of the political party below the party name where he~~  
13 ~~marked his cross (X) or a check (V) in the circle, except for~~  
14 ~~the candidates for whom he has otherwise voted; or~~

15 ~~C. if he wishes, mark the ballot by omitting the~~  
16 ~~cross (X) or check (V) in the circle and marking a cross (X) or~~  
17 ~~a check (V) in the box immediately to the right of the name of~~  
18 ~~every candidate or person for whom he desires to vote, and his~~  
19 ~~vote shall be considered as having been cast only for the~~  
20 ~~candidate or person opposite whose name the cross or check has~~  
21 ~~been marked] mark the ballot in accordance with the~~  
22 ~~instructions for that ballot type."~~

23 Section 40. TEMPORARY PROVISION--RECOMPILATION.--Section  
24 1-5-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 114, as  
25 amended) is recompiled as Section 1-12-7.2 NMSA 1978.

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